Harris v Assumed Administrator, Estate MacGregor

When do intestate heirs obtain their personal rights against the executor of the deceased estate to claim payment of their respective intestate shares? (When does *dies cedit* occur?)

When a deceased died without leaving a will/leaves an invalid will, dies cedit for the deceased's intestate heirs occurs on the deceased's death

When deceased left valid will that took effect on the deceased's death, but became inoperative, either wholly or partially, *dies cedit* for the deceased's intestate heirs occurs the moment the will became inoperative

Example

In valid will A left R10K to B if B completes the first Marathon to take place after A's death (in June 2019). If not, the R10K goes to C.

A died in November 2018. C died in March 2019. B failed to complete marathon.

The bequest of the R10 000 has now become inoperative: B failed to meet the condition for inheritance, and the alternative beneficiary (C) is already deceased

The R10 000 will now be divided amongst A's intestate heirs.

Who these heirs are will be determined in June 2019 and will not be determined retroactively with reference to November 2018 when A died. At this point they obtain *dies cedit*.

Unworthiness to Inherit

Blood relatives may be disqualified from right to inherit if they are found unworthy

The established grounds of unworthiness are:

- Person who murdered deceased cannot inherit from deceased estate

- the person who murdered one or more of the deceased's conjunctissimae personae (the persons most closely related to the deceased) cannot inherit from the deceased

- the person who stands to receive an inheritance by reason of a crime committed or other unlawful conduct perpetrated against the deceased cannot inherit from the deceased

1) Ex parte Steenkamp and Steenkamp

- The court found that a deceased's *conjunctissimae personae* are generally their parents, spouses and children

Therefore: Therefore, if A (son) murdered B (A's father), A cannot inherit intestate from C (A's mother) if C subsequently dies intestate. This because A murdered a conjunctissimus of C, B

2) Casey v The Master

- Husband convicted of culpable homicide (negligent killing) of his wife (married in community of property) wasn't disqualified from receiving half of the joint estate in terms of matrimonial property law.

- Husband disqualified from inheriting wife's will because public policy prescribes that culpable homicide should in appropriate circumstances, particularly if the killer acted in a morally blameworthy manner, result in the unworthiness of the killer to inherit from his/her victim

Unworthiness to Inherit (cont)

- The common law recognised negligent killing in appropriate circumstances as a ground for unworthiness to inherit -no reason to believe common law position no longer applies in modern law

3) Pillay v Nagan

- Son who forged mother's will (declared invalid) was unworthy to be an intestate heir of his mother

- Based on fact that he sought to deprive his siblings of their share in their mother's estate by making a false will for his mother in which he was the principal beneficiary

- Public policy demands that someone who sought to defraud others of their rightful inheritance by forging a will should be unworthy of inheriting from the estate of the person whose heirs s/he attempted to defraud

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